

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2367

Introduced by Assembly Member La Suer

February 23, 2006

An act to amend Section 25618 of the Business and Professions Code, to amend Sections 3510, 17419, and 17700 of the Financial Code, to amend Section 80174 of the Food and Agricultural Code, to amend Sections 1368, 3108, and 51018.7 of the Government Code, to amend ~~Section~~ *Sections* 25180.7, 44209, 100895, and 116730 of the Health and Safety Code, to amend Section 227 of the Labor Code, to amend Sections 145 and 1672 of the Military and Veterans Code, to amend Section 8285 of the Public Utilities Code, to amend Sections 19542.3, 43606, 45955, and 46705 of the Revenue and Taxation Code, and to amend Section 13387 of the Water Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2367, as amended, La Suer. Criminal penalties.

Existing law generally provides that a criminal offender shall, upon conviction, be subject to a determinate sentence, as specified. However, specified offenses relating to alcoholic beverage control, the price fixing of commodities, escrow agents, California desert native plants, oath or affirmations required of public officers and employees, the Elder California Pipeline Safety Act of 1981, *hazardous waste*, vehicular air pollution control of used direct import vehicles, environmental laboratories, drinking water, employment regulation and supervision, military and veterans, ~~the sale of horsemeat~~, public

utilities, revenue and taxation, and water pollution provide for indeterminate sentences instead.

This bill would revise the above provisions providing for indeterminate sentences to make those sentences determinate, as specified. *Because the provisions relating to hazardous waste were added by an initiative statute that may only be amended by the Legislature by a 2/3 vote, the bill would require that vote for enactment.*

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25618 of the Business and Professions
2 Code is amended to read:
3 25618. Every person convicted of a felony for a violation of
4 any of the provisions of this division for which another
5 punishment is not specifically provided for in this division shall
6 be punished by a fine of not more than ten thousand dollars
7 (\$10,000) or by imprisonment in the state prison, or by both that
8 fine and imprisonment.
9 SEC. 2. Section 3510 of the Financial Code is amended to
10 read:
11 3510. It shall be unlawful for any director, officer, agent, or
12 employee of any corporation to use or to conspire to use the
13 credit, the funds, or the power of the corporation to fix or control
14 the price of any commodities, and any person violating this
15 section shall be punished by a fine of not less than two thousand
16 dollars (\$2,000) nor more than ten thousand dollars (\$10,000) or
17 by imprisonment in the state prison, or by both that fine and
18 imprisonment, in the discretion of the court.
19 SEC. 3. Section 17419 of the Financial Code is amended to
20 read:
21 17419. On and after January 1, 1992, any person seeking
22 employment with an escrow agent shall complete an employment
23 application on or before the first day of employment which
24 includes, at least, the following information. A copy of the
25 employment application shall be forwarded to the commissioner
26 on or before the first day of the applicant's employment. Persons
27 required to file a statement of identity and questionnaire pursuant

to subdivision (f) of Section 17209 or Section 17212.1 are not required to file the employment application set forth in this section. Each person completing the employment application shall be given the notice required by the Information Practices Act (Section 1798.17 of the Civil Code), copies of which may be obtained from the commissioner. Nothing in this section shall limit an escrow agent from requesting additional information from an applicant.

STATEMENT OF IDENTITY
AND EMPLOYMENT APPLICATION

Name of Escrow Company: _____

Escrow Agent License Number: _____

1. Exact Full Name:

(Please Print or Type) First Name Middle Name Last Name

(Do not use initials or nicknames)

Title of position to be filled in connection with the preparation of this employment application.

2. Employment for the last 10 years:

From	To	Employer Name and Address	Occupation and Duties
	Present		

NOTE: Attach separate schedule if space is not adequate.

3. Residence addresses for the last 10 years:

From	To	Street	City	State
	Present			

NOTE: Attach separate schedule if space is not adequate.

4. Have you ever been named in any order, judgment or decree of any court or any governmental agency or administrator, temporarily or permanently restraining or enjoining you from engaging in or continuing any conduct, practice or employment?

() Yes () No

If the answer is "Yes", please complete the following:

Date of Suit: _____

Location of Court (City, County, State): _____

Nature of Suit: _____

Note: Attach a certified copy of any order, judgment, or decree.

5. Have you ever been refused a license to engage in any business in this state or any other state, or ~~has any such license ever been~~ *had any such license* suspended or revoked?

() Yes () No

If the answer is "Yes," please complete the following:

State: _____ Title of State Department: _____

Nature of License and Number: _____

Note: Attach a certified copy of any order, judgment, or decree.

6. Have you ever been convicted of or pleaded nolo contendere to a crime other than minor traffic citations that do not constitute a misdemeanor or felony offense?

NOTE: "Convicted" includes a verdict of guilty by judge or jury, a plea of guilty or of nolo contendere or a forfeiture of bail. All convictions must be disclosed even if the plea or verdict was thereafter set aside and the charges against you dismissed or expunged or if you have been pardoned. Convictions occurring while you were a minor must be disclosed unless the record of conviction has been sealed under Section 1203.45 of the California Penal Code or Section 781 of the California Welfare and Institutions Code.

() Yes () No

1 If the answer is "Yes" please complete the following:

2 Date of Case: _____

3 Location of Court (City, County, State): _____

4 Nature of Case: _____

5 Note: Attach a certified copy of any order, judgment, or decree.

6
7 7. Have you ever been a defendant in a civil court action other than divorce,
8 condemnation or personal injury?

9
10 ☐ Yes ☐ No

11 If the answer is "Yes" please complete the following:

12 Date of Suit: _____

13 Location of Court (City, County, State): _____

14 Nature of Suit: _____

15 Note: Attach a certified copy of any order, judgment, or decree.

16
17 8. Have you ever changed your name or ever been known by any name other
18 than that herein listed?

19 **(Including a woman's maiden name)**

20
21 ☐ Yes ☐ No

22 If so, explain. Change in name through marriage or court order should
23 also be listed.

24 **EXACT DATE OF EACH NAME CHANGE MUST BE LISTED.**

25 _____
26 _____

27
28 9. Have you ever done business under a fictitious firm name either as an
29 individual or in the partnership or corporate form?

30
31 ☐ Yes ☐ No

32 If the answer is "Yes" set forth particulars:

33 _____
34 _____

35
36 10. Have you ever been a subject of a bankruptcy or a petition in
37 bankruptcy?

38
39 ☐ Yes ☐ No
40

1 If the answer is "Yes" give date, title of case, location of bankruptcy
2 filing:

3 _____
4 _____
5 _____

6
7 11. Have you ever been refused a bond, or have you ever had a bond revoked
8 or canceled?

9
10 ☐ Yes ☐ No

11 If the answer is "Yes" give details:

12 _____
13 _____

14 12. In what capacity will you be employed? _____
15 (e.g., Clerk, Escrow Officer, Receptionist, etc.)

16
17 13. Do you expect to be a party to, or broker or salesman in connection with
18 escrows conducted by the escrow company which is employing you?

19
20 ☐ Yes ☐ No

21 If the answer is "Yes" please explain:

22 _____
23 _____
24 _____

25 NOTE: Attach separate schedule if space is not adequate.

26
27 VERIFICATION

28 I, the undersigned, state that I am the person named in the foregoing
29 Statement of Identity and Employment Application; that I have read and
30 signed said Statement of Identity and Employment Application and know the
31 contents thereof, including all exhibits attached thereto, and that the
32 statements made therein, including any exhibits attached thereto, are true.

33 Any person who provides false information is guilty of a felony and shall,
34 upon conviction, be fined not more than ten thousand dollars (\$10,000)-~~or~~, be
35 imprisoned in the state prison for two, three, or four years or in a county jail
36 for not more than one year, or be punished by both that fine and
37 imprisonment. Any person who knows or should have known of a violation
38 of this section shall immediately report the violation in writing to the
39 commissioner.

I certify/declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at _____

(City)

(County) (State)

this _____ day of _____, 20 ____.

(Signature of Declarant)

SEC. 4. Section 17700 of the Financial Code is amended to read:

17700. Any person who willfully violates any provision of this division, or who willfully violates any rule or order under this division, shall, upon conviction, be fined not more than ten thousand dollars (\$10,000), or imprisoned in the state prison, or in a county jail for not more than one year, or be punished by both that fine and imprisonment, but no person may be imprisoned for the violation of any rule or order unless he or she had knowledge of the rule or order. Conviction under this section shall not preclude the commissioner from exercising the authority provided in Section 17423.

SEC. 5. Section 80174 of the Food and Agricultural Code is amended to read:

80174. A second conviction may be considered as a misdemeanor or a felony. If a misdemeanor, it shall be punishable by a fine of not less than three hundred dollars (\$300), nor more than one thousand dollars (\$1,000), for each violation ~~or~~, by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment, and each violation ~~constitutes~~ *shall constitute* a separate offense. If a felony, it shall be punishable by a fine of not less than one thousand dollars (\$1,000), nor more than five thousand dollars (\$5,000), for each violation ~~or~~, by imprisonment in the state prison, or by both that fine and imprisonment, and each violation ~~constitutes~~ *shall constitute* a separate offense.

Upon the second conviction, all permits issued to the person convicted shall be revoked and the permittee shall be required to

1 surrender any unused tags and seals or wood receipts to the
2 issuing agency and no new or additional permits shall be issued
3 to the permittee at any time in the future from the date of
4 conviction.

5 SEC. 6. Section 1368 of the Government Code is amended to
6 read:

7 1368. Every person who, while taking and subscribing to the
8 oath or affirmation required by this chapter, states as true any
9 material matter which he or she knows to be false, is guilty of
10 perjury, and is punishable by imprisonment in the state prison for
11 two, three, or four years.

12 SEC. 7. Section 3108 of the Government Code is amended to
13 read:

14 3108. Every person who, while taking and subscribing to the
15 oath or affirmation required by this chapter, states as true any
16 material matter which he or she knows to be false, is guilty of
17 perjury, and is punishable by imprisonment in the state prison for
18 two, three, or four years.

19 SEC. 8. Section 51018.7 of the Government Code is amended
20 to read:

21 51018.7. (a) Any person who willfully and knowingly
22 violates any provision of this chapter or a regulation issued
23 pursuant thereto shall, upon conviction, be subject, for each
24 offense, to a fine of not more than twenty-five thousand dollars
25 (\$25,000), imprisonment in the state prison, or by both that fine
26 and imprisonment.

27 (b) Any person who willfully and knowingly defaces,
28 damages, removes, or destroys any pipeline sign or right-of-way
29 marker required by federal or state law or regulation shall, upon
30 conviction, be subject, for each offense, to a fine of not more
31 than five thousand dollars (\$5,000), imprisonment in a county jail
32 for not more than one year, or by both that fine and
33 imprisonment.

34 SEC. 8.5. *Section 25180.7 of the Health and Safety Code is*
35 *amended to read:*

36 25180.7. (a) Within the meaning of this section, a
37 “designated government employee” is any person defined as a
38 “designated employee” by Government Code Section 82019, as
39 amended.

1 (b) Any designated government employee who obtains
2 information in the course of his *or her* official duties revealing
3 the illegal discharge or threatened illegal discharge of a
4 hazardous waste within the geographical area of his *or her*
5 jurisdiction and who knows that ~~such~~ *the* discharge or threatened
6 discharge is likely to cause substantial injury to the public health
7 or safety must, within seventy-two hours, disclose ~~such~~ *that*
8 information to the local Board of Supervisors and to the local
9 health officer. No disclosure of information is required under this
10 subdivision when otherwise prohibited by law, or when law
11 enforcement personnel have determined that ~~such~~ *this* disclosure
12 would adversely affect an ongoing criminal investigation, or
13 when the information is already general public knowledge within
14 the locality affected by the discharge or threatened discharge.

15 (c) Any designated government employee who knowingly and
16 intentionally fails to disclose information required to be disclosed
17 under subdivision (b) shall, upon conviction, be punished by
18 imprisonment in ~~the~~ *a* county jail for not more than one year or
19 by imprisonment in state prison ~~for not more than three years~~.
20 The court may also impose upon the person a fine of not less than
21 five thousand dollars (\$5000) or more than twenty-five thousand
22 dollars (\$25,000). The felony conviction for violation of this
23 section shall require forfeiture of government employment within
24 thirty days of conviction.

25 (d) Any local health officer who receives information pursuant
26 to subdivision (b) shall take appropriate action to notify local
27 news media and shall make ~~such~~ *that* information available to the
28 public without delay.

29 SEC. 9. Section 44209 of the Health and Safety Code is
30 amended to read:

31 44209. Any person who falsifies any test record or report
32 which has been submitted to any other person, the department, or
33 the state board pursuant to this chapter is subject to punishment
34 by a fine of not less than one thousand dollars (\$1,000) or more
35 than five thousand dollars (\$5,000), by imprisonment in the state
36 prison, or by both that fine and imprisonment.

37 SEC. 10. Section 100895 of the Health and Safety Code is
38 amended to read:

39 100895. (a) Any person who knowingly does any of the
40 following acts may, upon conviction, be punished by a fine of not

1 more than twenty-five thousand dollars (\$25,000) for each day of
2 violation, by imprisonment in a county jail not to exceed one
3 year, or by both that fine and imprisonment:

4 (1) Makes any false statement or representation in any
5 application, record, report, or other document submitted,
6 maintained, or used for the purposes of compliance with this
7 article.

8 (2) Has in his or her possession any record required to be
9 maintained pursuant to this article that has been altered or
10 concealed.

11 (3) Destroys, alters, or conceals any record required to be
12 maintained pursuant to this article.

13 (4) Withholds information regarding an imminent and
14 substantial danger to the public health or safety when the
15 information has been requested by the department in writing and
16 is required to carry out the department's responsibilities pursuant
17 to this article.

18 ~~(b) If the conviction under subdivision (a) is for a violation~~
19 ~~committed after a first conviction of the person under this~~
20 ~~section, the person may be punished~~ *A second or subsequent*
21 *violation of subdivision (a) is punishable* by imprisonment in the
22 state prison for 16, 20, or 24 months or in a county jail for not
23 more than one year, by a fine of not less than two thousand
24 dollars (\$2,000) or more than fifty thousand dollars (\$50,000) per
25 day of violation, or by both that ~~fine and imprisonment~~
26 *imprisonment and fine*.

27 (c) An ELAP certified or NELAP accredited laboratory, upon
28 suspension, revocation, or withdrawal of its ELAP certification
29 or NELAP accreditation, shall do all of the following:

30 (1) Discontinue use of all catalogs, advertising, business
31 solicitations, proposals, quotations, or their materials that contain
32 reference to their past certification or accreditation status.

33 (2) Return its ELAP certificate or its NELAP accreditation to
34 the department.

35 (3) Cease all testing of samples for regulatory purposes.

36 (d) The penalties cited in subdivisions (a) and (b) shall also
37 apply to NELAP accredited laboratories.

38 SEC. 11. Section 116730 of the Health and Safety Code is
39 amended to read:

1 116730. (a) Any person who knowingly does any of the
2 following acts may, upon conviction, be punished by a fine of not
3 more than twenty-five thousand dollars (\$25,000) for each day of
4 violation, by imprisonment in a county jail not to exceed one
5 year, or by both that fine and imprisonment:

6 (1) Makes any false statement or representation in any
7 application, record, report, or other document submitted,
8 maintained, or used for the purposes of compliance with this
9 chapter.

10 (2) Has in his or her possession any record required to be
11 maintained pursuant to this chapter that has been altered or
12 concealed.

13 (3) Destroys, alters, or conceals any record required to be
14 maintained pursuant to this chapter.

15 (4) Withholds information regarding an imminent and
16 substantial danger to the public health or safety when the
17 information has been requested by the department in writing and
18 is required to carry out the department's responsibilities pursuant
19 to this chapter in response to an imminent and substantial danger.

20 (5) Violates an order issued by the department pursuant to this
21 chapter that has a substantial probability of presenting an
22 imminent danger to the health of persons.

23 (6) Operates a public water system without a permit issued by
24 the department pursuant to this chapter.

25 ~~(b) If the conviction under subdivision (a) is for a violation~~
26 ~~committed after a first conviction of the person under this~~
27 ~~section, the person may be punished~~ *A second or subsequent*
28 *violation of subdivision (a) is punishable* by imprisonment in the
29 state prison for 16, 20, or 24 months or *imprisonment* in a county
30 jail ~~for~~ not to exceed one year, by a fine of not less than two
31 thousand dollars (\$2,000) or more than fifty thousand dollars
32 (\$50,000) per day of violation, or by both that ~~fine and~~
33 ~~imprisonment~~ *imprisonment and fine*.

34 SEC. 12. Section 227 of the Labor Code is amended to read:

35 227. Whenever an employer has agreed with any employee to
36 make payments to a health or welfare fund, pension fund or
37 vacation plan, or other similar plan for the benefit of the
38 employees, or a negotiated industrial promotion fund, or has
39 entered into a collective bargaining agreement providing for
40 these payments, it shall be unlawful for ~~such an~~ *that* employer

1 willfully or with intent to defraud to fail to make the payments
2 required by the terms of that agreement. A violation of any
3 provision of this section where the amount the employer failed to
4 pay into the fund or funds exceeds five hundred dollars (\$500)
5 shall be punishable by imprisonment in the state prison, or in the
6 a county jail for a period of not more than one year, by a fine of
7 not more than one thousand dollars (\$1,000), or by both that
8 imprisonment and fine. All other violations shall be punishable
9 as a misdemeanor.

10 SEC. 13. Section 145 of the Military and Veterans Code is
11 amended to read:

12 145. A person who, after publication of the proclamation
13 authorized by Section 143, joins, participates or takes any part in
14 a rebellion, insurrection, tumult or riot, or who is party to any
15 conspiracy or combination to resist by force the execution of the
16 laws or who resists or aids in resisting the execution of process in
17 any county or city declared to be in a state of insurrection, or
18 who aids or attempts the rescue or escape of another from lawful
19 custody or confinement, or who resists or aids in resisting any
20 force ordered out by the Governor to quell or suppress an
21 insurrection, is punishable by a fine of not less than one thousand
22 dollars (\$1,000), or by imprisonment in the state prison for two,
23 three, or four years, or in a county jail ~~not exceeding~~ *for not more*
24 *than* one year, or by both that fine and imprisonment.

25 SEC. 14. Section 1672 of the Military and Veterans Code is
26 amended to read:

27 1672. Any person who is guilty of violating Section 1670 or
28 1671 is punishable as follows:

29 (a) If the act or failure to act causes the death of any person, a
30 person violating this section is punishable by death or
31 imprisonment in the state prison for life without possibility of
32 parole. The penalty shall be determined pursuant to the
33 provisions of Sections 190.3 and 190.4 of the Penal Code. If the
34 act or failure to act causes great bodily injury to any person, a
35 person violating this section is punishable by life imprisonment
36 without possibility of parole.

37 (b) If the act or failure to act does not cause the death of, or
38 great bodily injury to, any person, the person violating this
39 section is punishable by imprisonment in the state prison for two,
40 four, or six years, by a fine of not more than ten thousand dollars

1 (\$10,000), or by both that ~~fine and imprisonment~~ *imprisonment*
2 *and fine*. However, if a person so acts or so fails to act with the
3 intent to hinder, delay, or interfere with the preparation of the
4 United States or of any state for defense or for war, or with the
5 prosecution of war by the United States, or with the rendering of
6 assistance by the United States to any other nation in connection
7 with that nation's defense, the person is punishable by
8 imprisonment in the state prison for three, five, or seven years,
9 by a fine of not more than ten thousand dollars (\$10,000), or by
10 both that fine and imprisonment.

11 SEC. 15. Section 8285 of the Public Utilities Code is
12 amended to read:

13 8285. Any person or corporation, through its directors,
14 officers, or agents, which falsely represents a business as a
15 women, minority, or disabled veteran business enterprise in the
16 procurement of, or attempt to procure, contracts from an
17 electrical, gas, or telephone corporation with gross annual
18 revenues exceeding twenty-five million dollars (\$25,000,000), or
19 a commission-regulated subsidiary or affiliate subject to this
20 article, shall be punished by a fine of not more than five thousand
21 dollars (\$5,000) , by imprisonment in a county jail for not more
22 than one year or in the state prison, or by both that fine and
23 imprisonment. In the case of a corporation, the fine or
24 imprisonment, or both, shall be imposed on every director,
25 officer, or agent responsible for the false statements.

26 SEC. 16. Section 19542.3 of the Revenue and Taxation Code
27 is amended to read:

28 19542.3. Any person who willfully divulges or makes known
29 software, as defined in paragraph (1) of subdivision (d) of
30 Section 19504.5, to any person in violation of Section 19504.5 is
31 punishable by imprisonment in a county jail for not more than
32 one year, or in the state prison, at the discretion of the court , by
33 a fine of not more than five thousand dollars (\$5,000), or by both
34 that fine and imprisonment, at the discretion of the court,
35 together with the costs of investigation and prosecution.

36 SEC. 17. Section 43606 of the Revenue and Taxation Code is
37 amended to read:

38 43606. Every person convicted of a felony for a violation of
39 any of the provisions of this part for which another punishment is
40 not specifically provided for in this part shall be punished by a

1 fine of not more than five thousand dollars (\$5,000) , by
2 imprisonment in the state prison, or by both that fine and
3 imprisonment.

4 SEC. 18. Section 45955 of the Revenue and Taxation Code is
5 amended to read:

6 45955. Every person convicted of a felony for a violation of
7 any provision of this part for which another punishment is not
8 specifically provided for in this part shall be punished by a fine
9 of not more than five thousand dollars (\$5,000), by imprisonment
10 in the state prison, or by both that fine and imprisonment.

11 SEC. 19. Section 46705 of the Revenue and Taxation Code is
12 amended to read:

13 46705. Every person convicted of a felony for a violation of
14 this part for which another punishment is not specifically
15 provided for in this part shall be punished by a fine of not more
16 than five thousand dollars (\$5,000) , by imprisonment in the state
17 prison, or by both that fine and imprisonment in the discretion of
18 the court, together with the cost of investigation and prosecution.

19 SEC. 20. Section 13387 of the Water Code is amended to
20 read:

21 13387. (a) Any person who knowingly or negligently does
22 any of the following is subject to criminal penalties as provided
23 in subdivisions (b), (c), and (d):

24 (1) Violates Section 13375 or 13376.

25 (2) Violates any waste discharge requirements or dredged or
26 fill material permit issued pursuant to this chapter or any water
27 quality certification issued pursuant to Section 13160.

28 (3) Violates any order or prohibition issued pursuant to
29 Section 13243 or 13301, if the activity subject to the order or
30 prohibition is subject to regulation under this chapter.

31 (4) Violates any requirement of Section 301, 302, 306, 307,
32 308, 318, 401, or 405 of the Clean Water Act (33 U.S.C. Sec.
33 1311, 1312, 1316, 1317, 1318, 1328, 1341, or 1345), as
34 amended.

35 (5) Introduces into a sewer system or into a publicly owned
36 treatment works any pollutant or hazardous substances that the
37 person knew or reasonably should have known could cause
38 personal injury or property damage.

39 (6) Introduces any pollutant or hazardous substance into a
40 sewer system or into a publicly owned treatment works, except in

1 accordance with any applicable pretreatment requirements, which
2 causes the treatment works to violate waste discharge
3 requirements.

4 (b) Any person who negligently commits any of the violations
5 set forth in subdivision (a) shall, upon conviction, be punished by
6 a fine of not less than five thousand dollars (\$5,000), nor more
7 than twenty-five thousand dollars (\$25,000), for each day in
8 which the violation occurs, by imprisonment for not more than
9 one year in a county jail, or by both that fine and imprisonment.
10 If a conviction of a person is for a violation committed after a
11 first conviction of the person under this subdivision, subdivision
12 (c), or subdivision (d), punishment shall be by a fine of not more
13 than fifty thousand dollars (\$50,000) for each day in which the
14 violation occurs, by imprisonment in the state prison for 16, 20,
15 or 24 months, or by both that fine and imprisonment.

16 (c) Any person who knowingly commits any of the violations
17 set forth in subdivision (a) shall, upon conviction, be punished by
18 a fine of not less than five thousand dollars (\$5,000), nor more
19 than fifty thousand dollars (\$50,000), for each day in which the
20 violation occurs, by imprisonment in the state prison, or by both
21 that fine and imprisonment. If a conviction of a person is for a
22 violation committed after a first conviction of the person under
23 this subdivision or subdivision (d), punishment shall be by a fine
24 of not more than one hundred thousand dollars (\$100,000) for
25 each day in which the violation occurs, by imprisonment in the
26 state prison for two, four, or six years, or by both that fine and
27 imprisonment.

28 (d) (1) Any person who knowingly commits any of the
29 violations set forth in subdivision (a), and who knows at the time
30 that the person thereby places another person in imminent danger
31 of death or serious bodily injury, shall, upon conviction, be
32 punished by a fine of not more than two hundred fifty thousand
33 dollars (\$250,000) , imprisonment in the state prison for 5, 10, or
34 15 years, or by both that fine and imprisonment. A person that is
35 an organization shall, upon conviction under this subdivision, be
36 subject to a fine of not more than one million dollars
37 (\$1,000,000). If a conviction of a person is for a violation
38 committed after a first conviction of the person under this
39 subdivision, the punishment shall be by a fine of not more than
40 five hundred thousand dollars (\$500,000) , by imprisonment in

1 the state prison for 10, 20, or 30 years, or by both that fine and
2 imprisonment. A person that is an organization shall, upon
3 conviction for a violation committed after a first conviction of
4 the person under this subdivision, be subject to a fine of not more
5 than two million dollars (\$2,000,000). Any fines imposed
6 pursuant to this subdivision shall be in addition to any fines
7 imposed pursuant to subdivision (c).

8 (2) In determining whether a defendant who is an individual
9 knew that the defendant's conduct placed another person in
10 imminent danger of death or serious bodily injury, the defendant
11 is responsible only for actual awareness or actual belief that the
12 defendant possessed, and knowledge possessed by a person other
13 than the defendant, but not by the defendant personally, cannot
14 be attributed to the defendant.

15 (e) Any person who knowingly makes any false statement,
16 representation, or certification in any record, report, plan, notice
17 to comply, or other document filed with a regional board or the
18 state board, or who knowingly falsifies, tampers with, or renders
19 inaccurate any monitoring device or method required under this
20 division shall be punished by a fine of not more than twenty-five
21 thousand dollars (\$25,000), by imprisonment in the state prison
22 for 16, 20, or 24 months, or by both that fine and imprisonment.
23 If a conviction of a person is for a violation committed after a
24 first conviction of the person under this subdivision, punishment
25 shall be by a fine of not more than twenty-five thousand dollars
26 (\$25,000) per day of violation, by imprisonment in the state
27 prison for two, three, or four years, or by both that fine and
28 imprisonment.

29 (f) For purposes of this section, a single operational upset
30 which leads to simultaneous violations of more than one
31 pollutant parameter shall be treated as a single violation.

32 (g) For purposes of this section, "organization," "serious
33 bodily injury," "person," and "hazardous substance" shall have
34 the same meaning as in Section 309(c) of the Clean Water Act
35 (33 U.S.C. Sec. 1319(c)), as amended.

36 (h) (1) Subject to paragraph (2), funds collected pursuant to
37 this section shall be deposited in the State Water Pollution
38 Cleanup and Abatement Account.

39 (2) (A) Notwithstanding any other provision of law, fines
40 collected for a violation of a water quality certification in

1 accordance with paragraph (2) of subdivision (a) or for a
2 violation of Section 401 of the Clean Water Act (33 U.S.C. Sec.
3 1341) in accordance with paragraph (4) of subdivision (a) shall
4 be deposited in the Water Discharge Permit Fund and separately
5 accounted for in that fund.

6 (B) The funds described in subparagraph (A) shall be
7 expended by the state board, upon appropriation by the
8 Legislature, to assist regional boards, and other public agencies
9 with authority to clean up waste or abate the effects of the waste,
10 in cleaning up or abating the effects of the waste on waters of the
11 state, or for the purposes authorized in Section 13443.